


9-13-1955

## Resolution 1955-03-11 Reservation of Public Lands for Power Purposes

Association of Fish and Wildlife Agencies

Follow this and additional works at: [http://digitalcommons.law.msu.edu/afwa\\_reso](http://digitalcommons.law.msu.edu/afwa_reso)

 Part of the [Energy and Utilities Law Commons](#), [Environmental Law Commons](#), [Natural Resources Law Commons](#), and the [Water Law Commons](#)

---

### Recommended Citation

Association of Fish and Wildlife Agencies, *Resolution 1955-03-11 Reservation of Public Lands for Power Purposes* (1955),  
Available at: [http://digitalcommons.law.msu.edu/afwa\\_reso/793](http://digitalcommons.law.msu.edu/afwa_reso/793)

This Conference Proceeding is brought to you for free and open access by the The (International) Association of Fish & Wildlife Agencies Conservation Collection at Digital Commons at Michigan State University College of Law. It has been accepted for inclusion in Resolutions by an authorized administrator of Digital Commons at Michigan State University College of Law. For more information, please contact [domannbr@law.msu.edu](mailto:domannbr@law.msu.edu).

## **RESOLUTION NO. 1**

### **APPROPRIATION OF PITTMAN-ROBERTSON REVENUE**

Whereas, Public Law 375 of the 84th Congress authorizes the appropriation of the \$13,467,468.61 backlog of Pittman-Robertson Federal Aid in Wildlife Restoration funds in five equal annual installments beginning with the fiscal year starting July 1, 1955, and

Whereas, the states have urgent need for these authorized funds to finance measures designed to benefit the millions of Americans who annually engage in hunting,

Now, therefore be it resolved, by the International Association of Game, Fish and Conservation Commissioners in convention assembled at Augusta, Georgia, this 13th day of September, 1955, that the U. S. Fish and Wildlife Service is hereby requested to do everything within its power to have the first installment of the Pittman-Robertson backlog revenue included in the Supplemental Appropriation Bill for 1956, which is scheduled to be considered by the congress when it reconvenes in January, 1956, and

Be it further resolved, that all possible be done to incorporate permanent appropriation language in connection with the first installment of this backlog revenue so the intent of congress will be carried out without the need for resubmitting the request for the appropriation of each installment during the five year period ending with fiscal year 1960.

## **RESOLUTION NO. 2**

### **WILDLIFE CONSERVATION PROGRAMS AND WATER RESOURCES DEVELOPMENT**

Whereas, there is a definite need to integrate more closely wildlife conservation programs of state and federal agencies dealing with water resources development in order to prevent loss of or damage to wildlife resources.

Now, therefore, be it resolved, that the International Association of Game, Fish and Conservation Commissioners in annual convention assembled at Augusta, Georgia, this 13th day of September, 1955, go on record as urging congress to give favorable consideration to the immediate passage of S.2372 introduced by Senator McClellan of Arkansas which amends Public Law 732 to accomplish the objectives of the international organization.

## **RESOLUTION NO. 3**

### **RESERVATION OF PUBLIC LANDS FOR POWER PURPOSES**

Whereas, under the provisions of the Act of Congress of June 25, 1910 (36 Stat. 347), commonly known and referred to as the withdrawal from entry on public land laws, the Secretary of the Interior has, from time to time, by executive order, withdrawn from entry, sale or location under the public land laws and has reserved for power purposes, numerous power sites on the public lands of the United States many of which power sites are located on, along and adjacent to local non-navigable streams of the several states, and

Whereas, the Federal Power Commission, under the provisions of the Federal Power Act, 41 Stat. 1075, 16 U. S. C. 818, also has made numerous withdrawals from the public lands of the United States and has reserved for power purposes power sites on navigable and non-navigable waters of the several states, and

Whereas, ever since the enactment of the Desert Land Act of 1877, if not before, it has been the established law that all non-navigable waters then a part of the public domain became PUBLICI JURIS, subject to the plenary control of the states designed therein, with the right in each to determine for itself to what extent the rule of prior appropriation or the common-law rule of riparian rights should obtain, and

Whereas, it also has been the established law that the federal government, as the owner of the public domain, had the power to dispose

of the land and the water composing it together or separately, and that under the Desert Land Act of 1877, if not before, congress had severed the title to the land and the water and had established the rule that the land should be patented separately and that the government title to the land would not carry with it a water right but all non-navigable waters were reserved for the use of the public under the laws of the several states, and

Whereas, the Supreme Court of the United States recently upheld the validity of a license issued by the Federal Power Commission to construct a hydroelectric project on lands of the United States, withdrawn for power purposes, on a non-navigable stream, wholly within one state without the consent of the state on the ground that the withdrawal site was a "reservation" and not "public lands," within the meaning of Section 3 (1) and (2) of the Federal Power Act, and

Whereas, the legislative history of the Federal Power Act clearly indicated that it was never the intention of the congress to invest the Federal Power Commission with the authority, either expressed or implied, to usurp or encroach on the sovereign powers of the states to regulate the use of the waters of their non-navigable streams; it being expressly provided in Sec. 9 (b) (16 U.S.C.A. 802b) of said Federal Power Act that said Federal Power Commission shall, before issuing a license, require proof of the applicant that he has complied with the state laws with respect to the use of the water and the bed and banks of streams, and

Whereas, the actions of the Federal Power Commission and the courts in this respect have and will continue to jeopardize and to curtail the states in their development of stream utilization and is likely to cause irreparable damage to the water, wildlife, fishery resources, agriculture and industry and to create havoc in the administration of the water laws in the states, all in contravention of long established public policy.

Now, therefore, be it resolved that the International Association of Game, Fish and Conservation Commissioners in annual convention assembled at Augusta, Georgia, this 13th day of September, 1955, hereby does urge the Congress of the United States to enact legislation amending the Federal Power Act so as to compel the Federal Power Commission to require proof that applicants for a license have obtained prior approval of the several states in respect to the use of the waters and the beds and banks of streams, notwithstanding the fact that the project sought to be licensed is to be located on public lands or reservations of the United States which has been withdrawn for power purposes, and

Be it further resolved, that such legislation shall impose on the Federal Power Commission the duty to require such proof, as above-mentioned, whether or not the project shall have an adverse effect on the navigable flow or the navigable capacity of any navigable stream.

#### **RESOLUTION NO. 4**

##### **FUNDS FOR RECREATIONAL USE OF NATIONAL FORESTS**

Whereas, the recreational use of national forests continues to grow in keeping with increased population of the nation and increased leisure, and

Whereas, many national forests are presently in urgent need of recreational facilities including but not limited to camp ground and sanitation facilities, and wildlife habitat development, and

Whereas, funds for the development of the aforesaid recreational facilities are almost entirely lacking,

Now, therefore, be it resolved, that the International Association of Game, Fish and Conservation Commissioners in annual convention assembled at Augusta, Georgia, this 13th day of September, 1955, does hereby petition congress to hasten action on HR 1823 which would make available to the Forest Service funds for recreational improvement and upkeep and wildlife habitat development.

#### **RESOLUTION NO. 5**

##### **ACQUISITION OF FEDERAL WATERFOWL LANDS**

Whereas, the waterfowl refuge program as recommended by the President's Committee in 1934 is less than half completed, and